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TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1926

No. 53

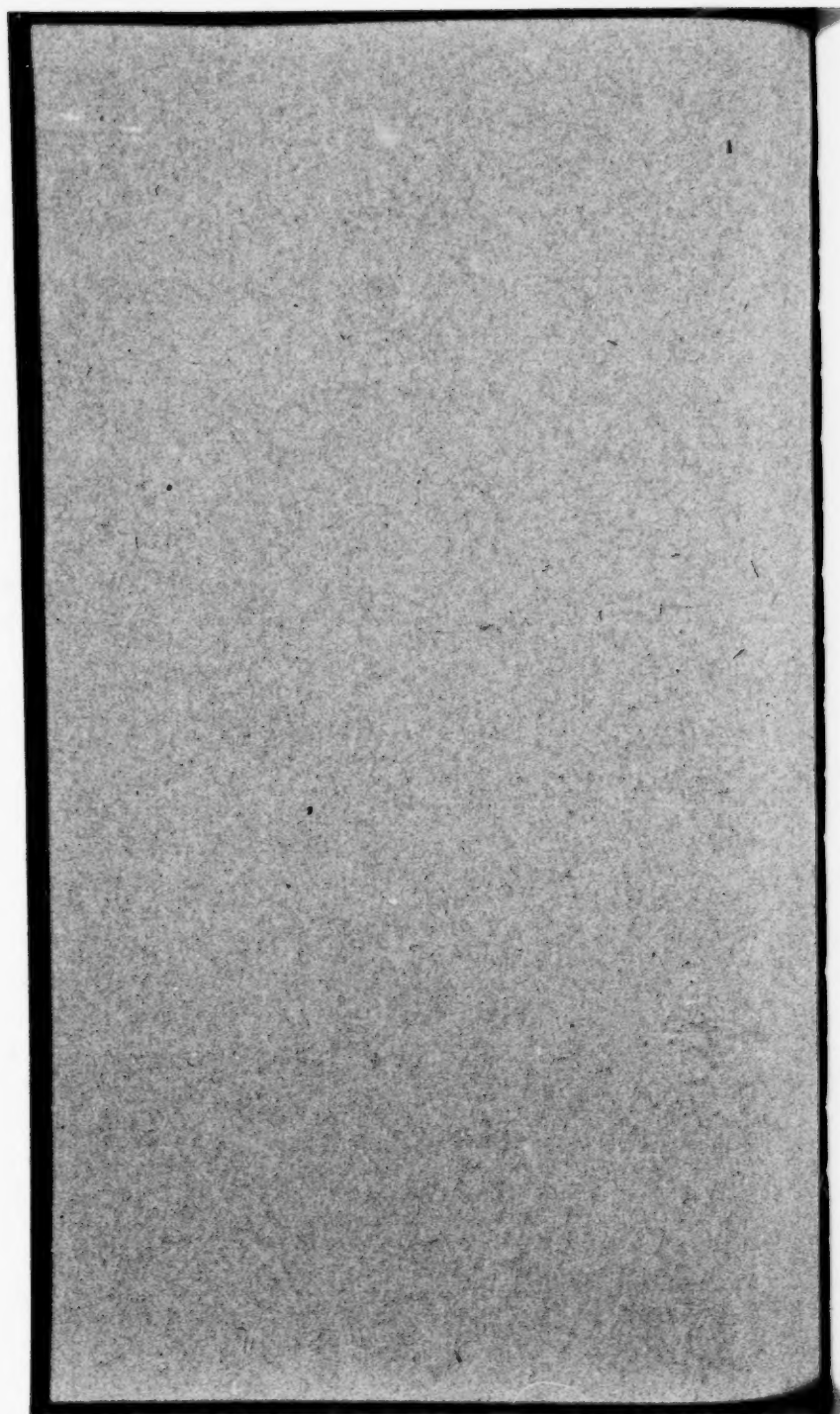
**GREAT NORTHERN RAILWAY COMPANY AND CENTRAL
UNION TRUST COMPANY OF NEW YORK, APPELLANTS,**

Howard S. Dickinson vs.
**THOMAS W. MILLER, AS ALIEN PROPERTY CUSTODIAN
OF THE UNITED STATES**

**APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK**

FILED APRIL 6, 1928

(31,000)



(31,006)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1925

No. 345

GREAT NORTHERN RAILWAY COMPANY AND CENTRAL
UNION TRUST COMPANY OF NEW YORK, APPELLANTS,

vs.

THOMAS W. MILLER, AS ALIEN PROPERTY CUSTODIAN
OF THE UNITED STATES

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK

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[fol. 1] **IN UNITED STATES DISTRICT COURT, SOUTHERN
DISTRICT OF NEW YORK**

In the Matter of the Application of THOMAS W. MILLER, as Alien Property Custodian of the United States, for an Order Directing Great Northern Railway Company to Cancel upon Its Books Certain Shares of Its Capital Stock and to Issue and Deliver to the said Alien Property Custodian New Certificates Therefor and Directing Central Union Trust Company of New York to Counter-sign said Certificates as Registrar of Transfers of said Great Northern Railway Company.

ORDER TO SHOW CAUSE

Upon the petition of Thomas W. Miller, as Alien Property Custodian of the United States, verified on the twelfth day of August, 1924,

Now, on motion of the Petitioner, Thomas W. Miller, it is

Ordered, that Great Northern Railway Company and Central Union Trust Company of New York, appear before the District Court of the United States in and for the Southern District of New York, at the Courtroom of said Court, Room 235, in the Old Post Office Building in the Borough of Manhattan, City of New York, on the twenty-fourth day of October, 1924, at ten o'clock in the forenoon or as soon thereafter as counsel can be heard; the Great Northern Railway Company then and there to show cause, if any it has, why the following certificates for the following shares of its preferred capital stock should not be forthwith cancelled upon its books and records:

[fol. 2]	Name of registered owner	Number of certificate	Number of shares
Constance Roth	A94131	4
Harold Roth	A94129	4
		A125470	8
Isabella Roth	B74293	10
		B79400	10
Fritz Roths Schuh	A86025	15
		B52995	10
Albertine, Baroness Schauenburg	A96398	4
Albertine, Baroness von Schauenburg	A125469	8
Deutsche Bank (Berlin)	B65537/9	30
London Agency	A120366	3
Direction Der Disconto-Gesellschaft	B65753/7	50
		B74501/5	50
Dresdner Bank	B61180	10
		B63232/8	70
		B66439	10
		A11632/3	2
Catherine Vogel Düringer	A139556	5

Name of registered owner	Number of certificate	Number of shares
Constance Hudemann	A125468	8
Kais Koen Oesterreichische Laenderbank.	B79016/29	140
Erich Karbe & Gustav Wahrenndorf	B27912	10
	B43027	10
	B64057	10
Alex. H. Kehrhabn	A112806	6
Maurice Krickl	A141094	7
Paul Lindenberg & Oscar Giessmann	B52697	10
	B52709/10	20
O. A. Rosenberg & Co.	B60786	10
A. Biedermann & Co.	A138013	6
" " " "	A62897	4
" " " "	B48645	10
" " " "	B64906	10
" " " "	B66213-5	30
" " " "	B66777-80	40
" " " "	A69226	6
" " " "	B71583/603	210
[fol. 3]		
A. Biedermann & Co.	B74764/9	60
" " " "	B75342/5	40
" " " "	B89143/5	30
" " " "	B85087/96	100
" " " "	B86633/7	50

and further to show cause why new certificates should not be issued in lieu thereof and forthwith delivered to your Petitioner pursuant to his demands; the Central Union Trust Company of New York then and there to show cause if any it has, why it should not be required to countersign said new certificates when issued by the Great Northern Railway Company; and for such other and further relief as to the Court may seem just, and it is

Further ordered, that service of a copy of said petition and of this order upon an official of the Great Northern Railway Company and upon an official of the Central Union Trust Company of New York, on or before the 11th day of October, 1924, at four o'clock in the afternoon, be sufficient and proper service

Dated this 8th day of October, 1924.

Francis G. Winslow, U. S. D. J.

[fol. 4]

IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION—Filed Feb. 7, 1925

To the Honorable Judges of the District Court of the United States
for the Southern District of New York:

Your Petitioner, Thomas W. Miller, as Alien Property Custodian
of the United States, respectfully presents on information and
belief:

1. That your Petitioner is now, and ever since the twelfth day
of March, 1921, has been, acting as Alien Property Custodian of
the United States, having been duly appointed and qualified as such
under the Act of Congress approved October 6, 1917, known as and
hereinafter generally called the "Trading with the Enemy Act."

2. That Great Northern Railway Company, hereinafter generally
called the Railway Company, is a corporation duly organized and
existing under and by virtue of the laws of the State of Minnesota,
and maintains an office for the transfer of its capital stock at No.
32 Nassau Street, in the Borough of Manhattan, City, County and
State of New York, and within the Southern District of New York.

[fol. 5] 3. That Central Union Trust Company of New York is
a corporation duly organized and existing under and by virtue of
the Laws of the State of New York, with its principal office at No.
80 Broadway, in the Borough of Manhattan, City, County and State
of New York and within the Southern District of New York. That
said Central Union Trust Company of New York is the Registrar
of Transfers for the certificates of stock of the Railway Company
and each certificate of its stock issued by the Railway Company
provides that it shall not become valid until countersigned by the
Registrar of Transfers.

4. That on or about December 20, 1917, the Railway Company
filed with the Alien Property Custodian a report pursuant to the
provisions of the "Trading with the Enemy Act," wherein it re-
ported, among other things, that the following named persons, be-
lieved to be enemies, were the registered owners of the following
number of shares of its preferred capital stock of the par value of
\$100. per share, and that the actual location of the certificates re-
presenting said shares was unknown to it:

Name of registered owner	No. of shares	No. of cert.
Constance Roth.....	4	A94131
Harold Roth.....	12	A94129 A125470
Isabella Roth.....	109	Various
Fritz Rothschild.....	27	B52995 A86025 A130582
Albertine, Baroness Schauenburg.....	4	B96398
Albertine, Baroness von Schauenburg.....	8	A125469
Deutsche Bank (Berlin) London Agency....	545	Various
Direction Der Disconto Gesellschaft.....	141	Various
Dresdner Bank.....	547	Various
[fol. 6] Catherine Vogel Düringer.....	5	A139556
Constance Hudemann.....	8	A125468
Kais Koen Oesterreichische Laenderbank...	402	Various
Erich Karbe & Gustav Warendorf.....	221	Various
Alex. H. Kehrhahn.....	6	A112806
Maurice Krickl.....	7	A141094
Paul Lindenberg & Oscar Geissmann.....	100	Various

That your petitioner is informed and believes that the said Albertine Baroness Schauenburg and the said Albertine Baroness von Schauenburg are one and the same person.

5. Thereafter, on April 24, 1918, A. Mitchell Palmer, then Alien Property Custodian of the United States, one of the predecessors in office of your Petitioner, acting under the authority conferred upon him by the "Trading with the Enemy Act" and the amendments thereto and the proclamations and executive orders promulgated by the President thereunder, after investigation determined that the following named persons were enemies not holding a license granted by the President and that each of said enemies had a certain right, title and interest in and to the number of shares of preferred stock of the Railway Company set opposite their respective names, to wit:

Name of enemy	Number of shares
Albertine, Baroness Schauenburg.....	12
Deutsche Bank (Berlin) London Agency.....	545
Direction Der Disconto-Gesellschaft.....	141
Dresdner Bank.....	547
[fol. 7] Catherine Vogel Düringer.....	5
Constance Hudemann.....	8
Kais Koen Oesterreichische Laenderbank.....	402
Alex. H. Kehrhahn.....	6
Paul Lindenberg & Oscar Geissmann.....	100
Constance Roth.....	4
Harold Roth.....	12
Isabella Roth.....	109

and thereupon the Alien Property Custodian issued twelve (12) demands, one for each of said enemies, directed to the Railway Company, a copy of each of said twelve (12) demands being served upon the Railway Company on May 22, 1918, in and by which the Alien Property Custodian required that the interest of said enemies in said stock be conveyed, transferred, assigned and delivered to the said Custodian, a copy of one of said demands, to-wit, the one demanding the interest of the said enemy, Albertine, Baroness Schauenburg, is annexed hereto, marked "Exhibit A" and prayed to be made a part hereof; the other eleven (11) demands, with the exception of the name and address of the enemy and the number of shares of stock, being identical in every respect with the said "Exhibit A."

6. Thereafter, on June 22, 1918, the said A. Mitchell Palmer, acting under the authority conferred upon him by the "Trading with the Enemy Act" and the amendments thereto and the proclamations and executive orders promulgated by the President thereunder, after investigation, determined that the following named persons were enemies not holding a license granted by the President, and that each of said enemies had a certain right, title and interest in and to the number of shares of preferred stock of the Railway Company set opposite their respective names, to-wit:

Maurice Krickl.....	7
Erich Karle & Wahrendorf.....	221
Fritz Rothschild.....	27

and thereupon the Alien Property Custodian issued three (3) demands, one for each of said enemies, directed to the Railway Company, a copy of each of said three (3) demands being served upon the Railway Company on July 1, 1918, in and by which the Alien Property Custodian required that the interest of said enemies in said stock be conveyed, transferred, assigned and delivered to the said Custodian, a copy of one of said demands, to-wit, the one demanding the interest of the said enemy, Maurice Krickl, is annexed hereto, marked "Exhibit B" and prayed to be made a part hereof; the other two (2) demands, with the exception of the name and address of the enemy and the number of shares of stock, being identical in every respect with the said "Exhibit B."

7. Thereafter, the Railway Company from time to time paid to the Alien Property Custodian various sums of money representing dividends on said shares of stock demanded by the Custodian as set forth in paragraphs numbered 5 and 6 hereof, and from time to time upon the surrender by the Custodian of Certificates representing a portion of said shares, the Railway Company, in compliance with the Custodian's requests, issued new certificates in lieu of those surrendered; that said surrendered certificates did not represent all of the shares of stock covered by said demands; that there [fol. 9] were and are still outstanding a number of certificates representing the stock covered by said demands as follows:

Name of registered owner	Number of certificate	Number of shares
Constance Roth	A94131	4
Harold Roth	A94129	4
	A125470	8
Isabella Roth	B74293	10
	B79400	10
Fritz Rothschild	A86025	15
	B52995	10
Albertine, Baroness Schauenburg	A96398	4
Albertine, Baroness von Schauenburg	A125469	8
Deutsche Bank (Berlin)	B65537/9	30
London Agency	A120366	3
Direction Der Disconto-Gesellschaft	B65753/7	50
	B74501/5	50
Dresdner Bank	B61180	10
	B63232/8	70
	B66439	10
	A116322/3	2
Catherine Vogel Düringer	A139556	5
Constance Hudemann	A125468	8
Kais. Koen. Oesterreichische Laenderbank	B79016/29	140
Erich Karbe & Gustav Währendorf	B27912	10
	B43027	10
	B64057	10
Alex. H. Kehrhaun	A112806	6
Maurice Krickl	A141094	7
Paul Lindenberg & Oscar Giessmann	B52697	10
	B52709/10	20

That the location of said certificates is unknown and that the same are not now and have never been in the possession of the Alien Property Custodian and no new certificates therefor have been issued by the Railway Company.

[fol. 10] 8. That on or about February 25, 1924, your Petitioner, acting under the authority conferred upon him by the "Trading with the Enemy Act" and the amendments thereto and the proclamations and executive orders promulgated by the President thereunder, and the demands theretofore issued by the Alien Property Custodian as set forth in paragraphs numbered 5 and 6 hereof, issued a request in writing in the form of a demand directed to the Railway Company, a copy of which was served upon the Railway Company on February 28, 1924, in and by which the Railway Company was required to cancel forthwith upon its books and records, all of said certificates for said shares of stock listed in paragraph numbered 7 hereof, and to issue new certificates respectively therefor in the name of Guaranty Trust Co. of New York, as depositary for the Alien Property Custodian; a copy of said request in the form of a demand is hereto annexed marked "Exhibit C" and prayed to be made a part hereof;

7

that the schedule referred to in said "Exhibit C" is not attached to said Exhibit as filed herewith; that said schedule contains the names of registered owners, the numbers of certificates and the numbers of shares as listed in paragraph numbered 7 hereof; that the said schedule specifies in Column No. 6 thereof that the name of the person or persons to whom the new certificates shall be issued is Guaranty Trust Co. of New York as depositary for the Alien Property Custodian; that the Railway Company refused and still refuses to issue new certificates for said shares of stock or any part thereof.

9. That by virtue of the "Trading with the Enemy Act" and the amendments thereto and the proclamations and executive orders promulgated by the President thereunder, and of said demands set [fol. 11] forth in paragraphs numbered 5 and 6 hereof, and of said request set forth in paragraph numbered 8 hereof, your petitioner is entitled to have the certificates for the shares of stock as listed in paragraph numbered 7 hereof, cancelled upon the books and records of the Railway Company and new certificates in lieu thereof issued to the Guaranty Trust Co. of New York, as depositary for the Alien Property Custodian; that your petitioner desires to have said new certificates issued forthwith.

10. That on or about December 3, 1918, the Railway Company filed with the Alien Property Custodian a report pursuant to the provisions of the "Trading with the Enemy Act," wherein it reported, among other things, that O. A. Rosenberg & Co., believed to be an enemy, was the registered owner of twenty (20) shares of its preferred capital stock of the par value of One Hundred Dollars (\$100) per share, Certificate Numbers B60748 and B60786, for ten (10) shares each, and that the actual location of said certificates representing said shares was unknown to it.

11. Thereafter, on December 17, 1918, A. Mitchell Palmer, then Alien Property custodian of the United States, one of the predecessors in office of your Petitioner, acting under the authority conferred upon him by the "Trading with the Enemy Act" and the amendments thereto and the proclamations and executive orders promulgated by the President thereunder, after investigation, determined that O. A. Rosenberg & Company was an enemy not holding a license granted by the President and had a certain right, title and interest in and to twenty (20) shares of preferred stock of the Railway Company, and [fol. 12] thereupon the Alien Property Custodian issued a demand directed to the Railway Company, a copy of which was served upon the Railway Company on January 8, 1919, in and by which the Alien Property Custodian required that the interest of said enemy in said stock be conveyed, transferred, assigned and delivered to the said Custodian, a copy of said demand is annexed hereto, marked "Exhibit D" and prayed to be made a part hereof.

12. Thereafter, the Railway Company from time to time paid to the Alien Property Custodian various sums of money representing dividends on said twenty (20) shares of stock demanded by the

Custodian as set forth in paragraph numbered 11 hereof; that on or about February 13, 1924, your petitioner released all right, title and interest under his demand to the ten (10) shares of said stock represented by certificate No. B60748; that there is still outstanding, Certificate No. B60786 for ten (10) shares of said stock; that the location of said certificate is unknown and that the same is not now and never has been in the possession of the Alien Property Custodian and no new certificate therefor has been issued by the Railway Company.

13. That on or about January 19, 1924, your Petitioner, acting under the authority conferred upon him by the "Trading with the Enemy Act," and the amendments thereto and the proclamations and executive orders promulgated by the President thereunder, and the demand theretofore issued by the Alien Property Custodian as set forth in paragraph numbered 11 hereof, issued a request in writing in the form of a demand directed to the Railway Company, a copy of which was served upon the Railway Company on January 25, 1924, in and by which the Railway Company was required to [fol. 13] cancel forthwith upon its books and records said Certificate No. B60786, for said ten (10) shares of stock referred to in paragraph numbered 12 hereof, and to issue a new certificate therefor in the name of United States Trust Company of New York, N. Y., as depositary for the Alien Property Custodian; a copy of said request in the form of a demand is hereto annexed marked "Exhibit E" and prayed to be made a part hereof; that the schedule referred to in said "Exhibit E" is not attached to said Exhibit as filed herewith; that said schedule contains the name O. A. Rosenberg & Co., the Certificate No. B60786 and the number of shares ten (10) as listed in paragraph numbered 11 hereof; that the said schedule specifies in Column No. 6 thereof that the name of the person or persons to whom the new certificate shall be issued is United States Trust Co. of New York, N. Y., as depositary for the Alien Property Custodian; that the Railway Company refused and still refuses to issue a new certificate for said shares of stock or any part thereof.

14. That by virtue of the "Trading with the Enemy Act" and the amendments thereto and the proclamations and executive orders promulgated by the President thereunder, and of said demand set forth in paragraph numbered 11 hereof, your Petitioner is entitled to have said Certificate No. B60786 for ten (10) shares of stock cancelled upon the books and records of the Railway Company and a new certificate in lieu thereof issued to the United States Trust Company of New York, N. Y., depositary for the Alien Property Custodian; that your Petitioner desires to have said new certificate issued forthwith.

[fol. 14] 15. That on or about May 1, 1919, the Railway Company filed with the Alien Property Custodian a report pursuant to the provisions of the "Trading with the Enemy Act," wherein it reported, among other things, that Lieber & Co., believed to be an enemy, was believed to be the beneficial owner of 596 shares of its

preferred capital stock of the par value of \$100 per share, represented by various certificates and that said stock stood in the name of A. Biedermann & Co., the registered owner thereof, and that the actual location of said certificates representing said shares was unknown to it.

16. Thereafter, on May 13, 1919, Francis P. Garvan, then Alien Property Custodian of the United States, and the immediate predecessor in office of your Petitioner, acting under the authority conferred upon him by the "Trading with the Enemy Act," and the amendments thereto and the proclamations and executive orders promulgated by the President thereunder, after investigation determined that Lieber & Company was an Enemy not holding a license granted by the President and had a certain right, title and interest in and to 596 shares of preferred stock of the Railway Company standing on its books in the name of A. Biedermann & Company, and thereupon the Alien Property Custodian issued a demand directed to the Railway Company, a copy of which was served upon the Railway Company on May 27, 1919, in and by which the Alien Property Custodian required that the interest of said Enemy in said stock be conveyed, transferred, assigned and delivered to the said Custodian; a copy of said demand is annexed hereto and marked "Exhibit F" and prayed to be made a part hereof.

[fol. 15] 17. Thereafter, the Railway Company, from time to time, paid to the Alien Property Custodian various sums of money representing dividends on said shares of stock demanded by the Custodian as set forth in paragraph numbered 16 hereof; that there are still outstanding the certificates representing the stock covered by said demand as follows:

Name of registered owner	Number of certificate	Number of shares
A. Biedermann & Co.....	A138013	6
" " " "	A62897	4
" " " "	B48645	10
" " " "	B64906	10
" " " "	B66213-5	30
" " " "	B66777-80	40
" " " "	A69226	6
" " " "	B71583/603	210
" " " "	B74764/9	60
" " " "	B75342/5	40
" " " "	B80143/5	30
" " " "	B85087/96	100
" " " "	B86633/7	50
Total		596

That the location of said certificates is unknown and that the same are not now and have never been in the possession of the Alien Property Custodian and no new certificates therefor have been issued by the Railway Company.

18. That on or about January 19, 1924, your Petitioner, acting under the authority conferred upon him by the "Trading with the Enemy Act" and the amendments thereto and the proclamations and [fol. 16] executive orders promulgated by the President thereunder, and the demand theretofore issued by the Alien Property Custodian, as set forth in paragraph numbered 16 hereof, issued a request in writing in the form of a demand directed to the Railway Company, a copy of which was served upon the Railway Company on January 26, 1924, in and by which the Railway Company was required to cancel forthwith upon its books and records all of said certificates for said 596 shares of stock listed in paragraph numbered 17 hereof, and to issue new certificates respectively therefor in the name of Guaranty Trust Company of New York, as depository for the Alien Property Custodian; a copy of said request in the form of a demand is hereto annexed marked "Exhibit G" and prayed to be made a part hereof; that the schedule referred to in said "Exhibit G" is not attached to said Exhibit as filed herewith; that said schedule contains the names of registered owners, the numbers of certificates and the numbers of shares as listed in paragraph numbered 17 hereof; that the said schedule specifies in Column No. 6 thereof that the name of the person or persons to whom the new certificates shall be issued is Guaranty Trust Company of New York as depository for the Alien Property Custodian; that the Railway Company refused and still refuses to issue new certificates for said shares of stock or any part thereof.

19. That by virtue of the "Trading with the Enemy Act" and the amendments thereto and the proclamations and executive orders promulgated by the President thereunder, and of said demand set forth in paragraph numbered 16 hereof, and of said request set forth in paragraph numbered 18 hereof, your Petitioner is entitled to have the certificates for the 596 shares of stock as listed in paragraph numbered 17 hereof, cancelled upon the books and records of the Railway Company and new certificates in lieu thereof issued to the Guaranty Trust Company of New York, as depository for the Alien Property Custodian; that your Petitioner desires to have said new certificates issued forthwith.

20. This is a proceeding brought by your Petitioner as the Alien Property Custodian of the United States pursuant to the provisions of Section 24 of the Judicial Code of the United States, by which the District Courts of the United States have original jurisdiction over all suits of a civil nature at common law or in equity brought by the United States or any official thereof; and under Section 17 of the Act of Congress approved October 6, 1917, and known as the "Trading with the Enemy Act," by virtue of which this Court has jurisdiction to make and enter all such orders and decrees and to issue such processes as may be necessary in the premises to enforce the provisions of said Act.

Wherefore, your Petitioner prays that Great Northern Railway Company and Central Union Trust Company of New York be or-

dered to appear before this court at such time as the Court may direct, the Railway Company then to show cause why the certificates of stock mentioned and described herein should not be cancelled upon its books and records and new certificates issued in lieu thereof and delivered to your petitioner in compliance with the demands of the Alien Property Custodian and in the form required by your Petitioner, and the Central Union Trust Company of New York then to show cause why it should not be required to countersign [fol. 18] said new certificates when issued by the Railway Company, and for such other and further relief as to the Court may seem just.

And your Petitioner will ever pray, etc.

(Signed) Thomas W. Miller, as Alien Property Custodian of the United States, Petitioner. Wm. Haywood, U. S. Attorney; Duer & Taylor, Counsel.

[fol. 19] Sworn to by Thomas W. Miller. Jurat omitted in printing.

[fol. 20] EXHIBIT A TO PETITION

Copy

A. P. C. Form No. 106-A

Report No. 9022. Trust No. 8221

Alien Property Custodian

Demand on Corporation for Stockholder's Interest Without
Presentation of Certificates

Demand by Alien Property Custodian for Property

Extracts from "Trading With the Enemy Act"

Sec. 7 (c). "If the President shall so require, any money or other property owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the alien property custodian."

Sec. 7 (e). "No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this Act."

"Any payment, conveyance, transfer, assignment or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obli-

gation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owed to an enemy or ally of enemy, deliver up any notes, bonds or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee."

Extracts from Executive Order of February 26, 1918

Sec. 1 (c). "The words 'right,' 'title,' 'interest,' 'estate,' 'power,' and 'authority' of the enemy, as used herein, shall be deemed to mean respectively such right, title, interest, estate, power, and authority of the enemy as may actually exist and also such as might or would exist if the existing state of war had not occurred, and shall be deemed to include respectively the right, title, interest, estate, power, and authority in law or equity or otherwise of any representative of or trustee for the enemy or other person claiming under or in the right of, or for the benefit of, the enemy."

Sec. 2 (a). "A demand for the conveyance, transfer, assignment, delivery, and payment of money or other property, unless expressly qualified or limited, shall be deemed to include every right, title, interest, and estate of the enemy in and to the money or other property demanded as well as every power and authority of the enemy thereover."

Sec. 2 (c). "When demand shall be made and notice thereof given, as hereinbefore provided, such demand and notice shall forthwith vest in the Alien Property Custodian such right, title, interest, and estate in and to and possession of the money or other property demanded and such power or authority thereover as may be included within the demand, and the Alien Property Custodian may thereupon proceed to administer such money and other property in accordance with the provisions of the 'Trading with the enemy Act' and with any orders, rules, or regulations heretofore, hereby, or hereafter made by me or heretofore or hereafter made by the Alien Property Custodian."

Sec. 3 (d). "The Alien Property Custodian may exercise any right, power, or authority of the enemy in, to, and over corporate stock, shares, or certificates representing beneficial interests owing or belonging to or held for, by, on account of, or on behalf of or for the benefit of an enemy, including (1) the right to receive all notices issued by the corporation, unincorporated association, company, or trustee which issued such stock, shares, or certificates, to the

holders or owners of similar stock, shares, or certificates, (2) the right to exercise all voting power appertaining to such stock, shares, or certificates, and (3) the right to receive all subscription rights, dividends, and other distributions and payments, whether of capital or income, declared or made on account of such stock, shares, or certificates, regardless of whether or not such stock, shares, or certificates be in the possession of the Alien Property Custodian and regardless of whether or not such stock, shares, or certificates have been transferred to the Alien Property Custodian upon the books of the corporation, association, company, or trustee issuing the same."

APC-MM-188-Rev.

You are hereby instructed to remit all accumulated dividends direct to this office upon receipt hereof. If checks for accumulated dividends have heretofore been drawn in favor of the enemy and are now held by you, you may send such checks direct to this office. All future dividends shall be remitted to Guaranty Trust Company of New York as depository for Alien Property Custodian, Trust No. F-8221-X, as depository in *in* this trust.

You will also direct all notices hereby demanded, to said depository and identify each notice by the trust number hereof.

To Great Northern Railway Company, Address 32 Nassau St., New York, N. Y.:

I, A. Mitchell Palmer, Alien Property Custodian, duly appointed, qualified, and acting under the provisions of the Act of Congress known as the "Trading with the enemy Act," approved October 6, 1917, and the executive orders issued in pursuance thereof, by virtue of the authority vested in me by said act, and by said executive orders, after investigation do determine that Albertine, Baroness Schauenburg (name of enemy or ally of enemy), whose address is Friedburg, Baden, Germany (last known address), is an enemy (not holding a license granted by the President), and has a certain right, title, and interest in and to 12 shares of preferred (common, preferred) stock standing on your books in the name of Albertine, Baroness Schauenburg.

I, as Alien Property Custodian, do hereby require that you shall convey, transfer, assign, and deliver to me as Alien Property Custodian, to be by me held, administered, and accounted for as provided by law, every right, title, and interest of the said enemy in said stock, including in respect to the said stock the right which the said enemy may have, (a) to receive all notices issued by you to the holders or owners of similar stock, shares, or certificates; (b) to exercise all voting power appertaining to such stock, shares, or certificates; (c) to receive all subscription rights, dividends, and other distributions and payments, whether of capital or of income, declared or made on account of such stock, shares, or certificates.

I, as Alien Property Custodian, do hereby further require that you note the substance of this demand upon your stock books and/or

stock ledger, and that you furnish a copy of this demand to the registrar and/or transfer agent, if any, of the stock in respect to which this demand is made.

I, as Alien Property Custodian, do hereby further require that within ten days from the service of this demand upon you, you report to me any and all acts which you have done, or omitted to do, pursuant to the requirements of this demand.

Until otherwise directed, you will remit to the Alien Property Custodian at Washington, by check payable to his order, all payments, whether of capital or income, now or hereafter declared or due on account of such stock, shares, or certificates, and you will direct such notices in respect to the said stock, shares, or certificates to the Alien Property Custodian.

This demand is supplementary to any demand which may hitherto have been made upon you, accompanied by the presentation of certificates which represent shares or beneficial interests, for the transfer into my name as Alien Property Custodian, of such certificates, or for the transfer thereof into the name of any nominee of me as Alien Property Custodian, and this demand shall not prejudice or affect any demand accompanied by such certificates which has been, or which may hereafter be, made.

Witness my hand and seal of office, this 24th day of April, 1918.

A. Mitchell Palmer, Alien Property Custodian, by (Sgd.) J. L. Davis, Managing Director.

Service of the within demand accepted this 22nd day of May, 1918.

Great Northern Ry. Co. (Sgd.) N. Terhune, Asst. Treas.

Served the within notice and demand on the within-named Great Northern Railway Co. at 32 Nassau Street, in the City of New York, State of New York, this 22 day of May, 1918, by giving a true and correct copy thereof to N. Terhune, a Asst. Treasurer of the corporation of whom said demand is made, at the office of said corporation.

Guaranty Trust Co. of New York. (Sgd.) H. S. Mason, Asst. Custody Clerk.

Served the within demand and notice on the corporation to which this demand is addressed, by transmitting a true and correct copy thereof to the said corporation at the address which appears on the face hereof, in a securely fastened official franked wrapper, registered at the post office at —, in the city of Washington, on the — day of —, 191—.

— — —

[fol. 21]

EXHIBIT B TO PETITION

Copy

A. P. C. Form No. 106-A

Report No. 9022. Trust No. 8225

Alien Property Custodian

Demand on Corporation for Stockholder's Interest Without Presentation of Certificates

Demand by Alien Property Custodian for Property

Extracts from "Trading with the Enemy Act"

Sec. 7 (c). "If the President shall so require, any money or other property owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of any enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the alien property custodian."

Sec. 7 (e). "No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this Act."

"Any payment, conveyance, transfer, assignment or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owned to an enemy or ally of enemy, deliver up any notes, bonds or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee."

Extracts from Executive Order of February 26, 1918

Sec. 1 (c). "The words 'right,' 'title,' 'interest,' 'estate,' 'power,' and 'authority' of the enemy, as used herein, shall be deemed to mean respectively such right, title, interest, estate, power, and authority of the enemy as may actually exist and also such as might

or would exist if the existing state of war had not occurred, and shall be deemed to include respectively the right, title, interest, estate, power, and authority in law or equity or otherwise of any representative of or trustee for the enemy or other person claiming under or in the right of, or for the benefit of, the enemy."

Sec. 2 (a). "A demand for the conveyance, transfer, assignment, delivery, and payment of money or other property, unless expressly qualified or limited, shall be deemed to include every right, title, interest, and estate of the enemy in and to the money or other property demanded as well as every power and authority of the enemy thereover."

Sec. 2 (c). "When demand shall be made and notice thereof given, as hereinbefore provided, such demand and notice shall forthwith vest in the Alien Property Custodian such right, title, interest, and estate in and to and possession of the money or other property demanded and such power or authority thereover as may be included within the demand, and the Alien Property Custodian may thereupon proceed to administer such money and other property in accordance with the provisions of the 'Trading with the enemy Act' and with any orders, rules, or regulations heretofore, hereby, or hereafter made by me or heretofore or hereafter made by the Alien Property Custodian."

Sec. 3 (d). "The Alien Property Custodian may exercise any right, power, or authority of the enemy in, to, and over corporate stock, shares, or certificates representing beneficial interests owing or belonging to or held for, by, on account of, or on behalf of or for the benefit of an enemy, including (1) the right to receive all notices issued by the corporation, unincorporated association, company, or trustee which issued such stock, shares, or certificates, to the holders or owners of similar stock, shares, or certificates, (2) the right to exercise all voting power appertaining to such stock, shares, or certificates, and (3) the right to receive all subscription rights, dividends, and other distributions and payments, whether of capital or income, declared or made on account of such stock, shares, or certificates, regardless of whether or not such stock, shares, or certificates be in the possession of the Alien Property Custodian and regardless of whether or not such stock, shares, or certificates have been transferred to the Alien Property Custodian upon the books of the corporation, association, company, or trustee issuing the same."

APC-MM-188-Rev.

You are hereby instructed to remit all accumulated dividends direct to this office upon receipt hereof. If checks for accumulated dividends have heretofore been drawn in favor of the enemy and are now held by you, you may send such checks direct to this office. All future dividends shall be remitted to Guaranty Trust Company of New York, as depository for Alien Property Custodian, Trust No. F-8225-X, which has been duly designated as the depository in this trust.

You will also direct all notices hereby demanded, to said depository and identify each notice by the trust number hereof.

To Great Northern Railway Company, Address 32 Nassau St., New York:

I, A. Mitchell Palmer, Alien Property Custodian, duly appointed, qualified, and acting under the provisions of the Act of Congress known as the "Trading with the enemy Act," approved October 6, 1917, and the executive orders issued in pursuance thereof, by virtue of the authority vested in me by said act, and by said executive orders, after investigation do determine that Maurice Krickl (name of enemy or ally of enemy) whose address is c/o Guaranty Trust Co., 140 Broadway, New York, N. Y. (last known address), is an enemy (not holding a license granted by the President), and has a certain right, title, and interest in and to 7 shares of preferred (common, preferred) stock standing on your books in the name of Maurice Krickl.

I, as Alien Property Custodian, do hereby require that you shall convey, transfer, assign, and deliver to me as Alien Property Custodian, to be by me held, administered, and accounted for as provided by law, every right, title, and interest of the said enemy in said stock, including in respect to the said stock the right which the said enemy may have, (a) to receive all notices issued by you to the holders or owners of similar stock, shares, or certificates; (b) to exercise all voting power appertaining to such stock, shares, or certificates; (c) to receive all subscription rights, dividends, and other distributions and payments, whether of capital or of income, declared or made on account of such stock, shares, or certificates.

I, as Alien Property Custodian, do hereby further require that you note the substance of this demand upon your stock books and/or stock ledger, and that you furnish a copy of this demand to the registrar and/or transfer agent, if any, of the stock in respect to which this demand is made.

I, as Alien Property Custodian, do hereby further require that within ten days from the service of this demand upon you, you report to me any and all acts which you have done, or omitted to do, pursuant to the requirements of this demand.

Until otherwise directed, you will remit to the Alien Property Custodian at Washington, by check payable to his order, all payments, whether of capital or income, now or hereafter declared or due on account of such stock, shares, or certificates, and you will direct such notices in respect to the said stock, shares, or certificates to the Alien Property Custodian.

This demand is supplementary to any demand which may hitherto have been made upon you, accompanied by the presentation of certificates which represent shares or beneficial interests, for the transfer into my name, as Alien Property Custodian, of such certificates, or for the transfer thereof into the name of any nominee of me as Alien Property Custodian, and this demand shall not prejudice or

affect any demand accompanied by such certificates which has been, or which may hereafter be, made.

Witness my hand and seal of office, this 22nd day of June, 1918.

A. Mitchell Palmer, Alien Property Custodian, by (Sgd.)

J. L. Davis, Managing Director.

Service of the within demand accepted this 1st day of July, 1918.

Great Northern Ry. Co. (Sgd.) N. Terhune.

Served the within notice and demand on the within-named Great Northern Railway Co. at 32 Nassau Street, in the City of New York, State of New York, this 1st day of July, 1918, by giving a true and correct copy thereof to N. Terhune, Asst. Treasurer of the corporation of whom said demand is made, at the office of said corporation.

Guaranty Trust Co. of N. Y. (Sgd.) H. S. Mason, Asst. Custody Clerk.

Served the within demand and notice on the corporation to which this demand is addressed, by transmitting a true and correct copy thereof to the said corporation at the address which appears on the face hereof, in a securely fastened official franked wrapper, registered at the post office at —, in the city of Washington, on the — day of —, 191—.

[fol. 22]

EXHIBIT 6 TO PETITION

Original

Exhibit C

Report No. 9022.

Trust No.	3877	7963
	8387	8219
	493	8220
	503	8223
	1682	8225
	3918	8226
	5198	8230
	5199	8221
	7962	1923

To: Great Northern Railway Company,
Address: 32 Nassau Street, New York City.

and to all transfer agents, registrars, and other persons having power to perform any of the acts hereinafter required.

Whereas, the Alien Property Custodian, duly appointed, qualified, and acting under the provisions of the Act of Congress known as the "Trading with the Enemy Act" approved October 6, 1917, and

the amendments thereto, and the proclamations and Executive Orders issued in pursuance thereof, by virtue of the authority vested in him by said Act, said Proclamations and Executive Orders, after investigation, did determine that those certain shares of your capital stock heretofore registered and standing upon your books in the name of the person or persons listed in Column No. 1 of the schedule marked "Exhibit A" attached hereto and made a part hereof (said schedule being identified by the signature A. Henry Walter on the margin thereof), and evidenced or represented by a certificate or certificates numbered as specified in Column No. 2 of said schedule on the same line with the name of the person in whose name said stock is registered or stands, of the number and class of shares listed in Column No. 3 of said schedule on the same line as aforesaid, belonged to and were by you held for, on account of, on behalf of, or for the benefit of the person or persons listed on the same line therewith in Column No. 4 of said schedule; and

Whereas the said Alien Property Custodian, did, after investigation, determine said persons whose names are listed in said Column No. 4 and whose addresses are given in Column No. 5 on the same line therewith, to be enemies not holding a license granted by the President, within the purview of said Act as amended and said proclamations and Executive Orders issued in pursuance thereof; and

Whereas the said Alien Property Custodian, by virtue of the demand or demands heretofore served on you, did acquire every right, title and interest of the said persons whose names are listed in said Column No. 4 in the said shares of stock, including in respect to the stock, the right which the said persons may have (a) to receive all notices issued by you to the holders or owners of similar stock, shares, or certificates, (b) to exercise all voting power appertaining to such stock, shares, or certificates, and (c) to receive all subscription rights, dividends, and other distributions and payments whether of capital or of income, declared or made on account of such stock, shares, or certificates;

Now, therefore, I, Thomas W. Miller, as such Alien Property Custodian, duly appointed, qualified, and acting as aforesaid, by virtue of the authority vested in me by said Act, proclamations and Executive Orders, and particularly by the amendment to Subsection (c) of Section Seven of said Act, approved November 4, 1918, do hereby require you to cancel forthwith upon your books and records, all the said shares of stock listed in said schedule and in lieu thereof to issue new certificates respectively in the name of the person or persons as specified in Column No. 6 of said schedule.

This requirement is supplementary to any which has been heretofore made upon you with respect to said shares or certificates and shall not prejudice nor affect any such requirement or any rights acquired by virtue thereof.

Witness my hand and seal of office, this 25th day of February, 1924.

Thomas W. Miller, Alien Property Custodian. (Seal of Alien Property Custodian, United States of America.)

EXHIBIT D TO PETITION

Copy

A. P. C. Form No. 106-A

Report No. 32677. Trust No. II-4043

Alien Property Custodian

Demand on Corporation for Stockholder's Interest Without Presentation of Certificates

Demand by Alien Property Custodian for Property

Extracts from "Trading with the Enemy Act"

Sec. 7 (c). "If the President shall so require, any money or other property owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the alien property custodian."

Sec. 7 (e). "No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this Act."

"Any payment, conveyance, transfer, assignment or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owed to an enemy or ally of enemy, deliver up any notes, bonds or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee."

Extracts from Executive Order of February 26, 1918

Sec. 1 (c). "The words 'right,' 'title,' 'interest,' 'estate,' 'power,' and 'authority' of the enemy, as used herein, shall be deemed to mean respectively such right, title, interest, estate, power, and author-

ity of the enemy as may actually exist and also such as might or would exist if the existing state of war had not occurred, and shall be deemed to include respectively the right, title, interest, estate power, and authority in law or equity or otherwise of any representative of or trustee for the enemy or other person claiming under or in the right of, or for the benefit of, the enemy."

Sec. 2 (a). "A demand for the conveyance, transfer, assignment, delivery, and payment of money or other property, unless expressly qualified or limited, shall be deemed to include every right, title, interest, and estate of the enemy in and to the money or other property demanded as well as every power and authority of the enemy thereover."

Sec. 2 (c). "When demand shall be made and notice thereof given, as hereinbefore provided, such demand and notice shall forthwith vest in the Alien Property Custodian such right, title, interest, and estate in and to and possession of the money or other property demanded and such power or authority thereover as may be included within the demand and the Alien Property Custodian may thereupon proceed to administer such money and other property in accordance with the provisions of the 'Trading with the enemy Act' and with any orders, rules, or regulations heretofore, hereby, or hereafter made by me or heretofore or hereafter made by the Alien Property Custodian."

Sec. 3 (d). "The Alien Property Custodian may exercise any right, power, or authority of the enemy in, to, and over corporate stock, shares, or certificates representing beneficial interests owing or belonging to or held for, by, on account of, or on behalf of or for the benefit of an enemy, including (1) the right to receive all notices issued by the corporation, unincorporated association, company, or trustee which issued such stock, shares, or certificates, to the holders or owners of similar stock, shares, or certificates, (2) the right to exercise all voting power appertaining to such stock, shares, or certificates, and (3) the right to receive all subscription rights, dividends, and other distributions and payments, whether of capital or income, declared or made on account of such stock, shares, or certificates, regardless of whether or not such stock, shares, or certificates be in the possession of the Alien Property Custodian and regardless of whether or not such stock, shares, or certificates have been transferred to the Alien Property Custodian upon the books of the corporation, association, company, or trustee issuing the same."

APC-MM-188-Rev.

You are hereby instructed to remit all accumulated dividends direct to this office upon receipt hereof. If checks for accumulated dividends have heretofore been drawn in favor of the enemy and are now held by you, you may send such checks direct to this office.

All future dividends shall be remitted to United States Trust Company as depositary for Alien Property Custodian. Trust No. H-4034 which has been duly designated as the depositary in this trust.

You will also direct all notices hereby demanded, to said depository and identify each notice by the trust number hereof.

To Great Northern Railway Company, Address 32 Nassau Street, New York, New York:

I, A. Mitchell Palmer, Alien Property Custodian, duly appointed, qualified, and acting under the provisions of the Act of Congress known as the "Trading with the enemy Act," approved October 6, 1917, and the executive orders issued in pursuance thereof, by virtue of the authority vested in me by said act, and by said executive orders, after investigation do determine that O. A. Rosenberg & Company (name of enemy or ally of enemy), whose address is London, England (last known address), is an enemy (not holding a license granted by the President), and has a certain right, title and interest in and to 20 shares of Preferred (common preferred), stock standing on your books in the name of O. A. Rosenberg & Company.

I, as Alien Property Custodian, do hereby require that you shall convey, transfer, assign, and deliver to me as Alien Property Custodian, to be by me held, administered, and accounted for as provided by law, every right, title, and interest of the said enemy in said stock, including in respect to the said stock the right which the said enemy may have (a) to receive all notices issued by you to the holders or owners of similar stock, shares, or certificates; (b) to exercise all voting power appertaining to such stock, shares, or certificates; (c) to receive all subscription rights, dividends, and other distributions and payments, whether of capital or of income, declared or made on account of such stock, shares, or certificates.

I, as Alien Property Custodian, do hereby further require that you note the substance of this demand upon your stock books and/or stock ledger, and that you furnish a copy of this demand to the registrar and/or transfer agent, if any, of the stock in respect to which this demand is made.

I, as Alien Property Custodian, do hereby further require that within ten days from the service of this demand upon you, you report to me any and all acts which you have done, or omitted to do, pursuant to the requirements of this demand.

Until otherwise directed, you will remit to the Alien Property Custodian at Washington, by check payable to his order, all payments, whether of capital or income, now or hereafter declared or due on account of such stock, shares, or certificates, and you will direct such notices in respect to the said stock, shares, or certificates to the Alien Property Custodian.

This demand is supplementary to any demand which may hitherto have been made upon you, accompanied by the presentation of certificates which represent shares or beneficial interests, for the transfer into my name, as Alien Property Custodian, of such certificates, or for the transfer thereof into the name of any nominee of me as Alien Property Custodian, and this demand shall not prejudice or

affect any demand accompanied by such certificates which has been, or which may hereafter be, made.

Witness my hand and seal of office, this 17th day of December, 1918.
A. Mitchell Palmer, Alien Property Custodian, by (Sgd.)
J. L. Davis, Managing Director.

Service of the within demand accepted this 8th day of Jany., 1919.
Great Northern Ry. Co., by (Sgd.) N. Terhune, Asst. Treas.

Served the within notice and demand on the within-named Great Northern Ry. Co., at 32 Nassau St., *Street*, in the City of New York, State of New York, this 8th day of January, 1919, by giving a true and correct copy thereof to N. Terhune, Asst. Secy. of the corporation of whom said demand is made, at the office of said corporation.

(Sgd.) (Signature illegible.)

Served the within demand and notice on the corporation to which this demand is addressed, by transmitting a true and correct copy thereof to the said corporation at the address which appears on the face hereof, in a securely fastened official franked wrapper, registered at the post office at ———, in the city of Washington, on the — day of ———, 191—.

[fol. 24]

EXHIBIT "E" TO PETITION

Original

Exhibit E

Report No. 32677

Trust No. 4043

To: Great Northern Railway Company,
Address: 32 Nassau Street, New York City.

and to all transfer agents, registrars, and other persons having power to perform any of the acts hereinafter required.

Whereas, the Alien Property Custodian, duly appointed, qualified, and acting under the provisions of the Act of Congress known as the "Trading with the Enemy Act" approved October 6, 1917, and the amendments thereto, and the proclamations and Executive Orders issued in pursuance thereof, by virtue of the authority vested in him by said Act, said Proclamations and Executive Orders, after investigation, did determine that those certain shares of your capital stock heretofore registered and standing upon your books in the name of the person or persons listed in Column No. 1 of the schedule marked "Exhibit A" attached hereto and made a part hereof (said

schedule being identified by the signature A. Henry Walter on the margin thereof), and evidenced or represented by a certificate or certificates numbered as specified in Column No. 2 of said schedule on the same line with the name of the person in whose name said stock is registered or stands, of the number and class of shares listed in Column No. 3 of said schedule on the same line as aforesaid, belonged to and were by you held for, on account of, on behalf of, or for the benefit of the person or persons listed on the same line therewith Column No. 4 of said schedule; and

Whereas the said Alien Property Custodian, did, after investigation, determine said persons whose names are listed in said Column No. 4 and whose addresses are given in Column No. 5 on the same line therewith, to be enemies not holding a license granted by the President, within the purview of said Act as amended and said proclamations and Executive Orders issued in pursuance thereof; and

Whereas the said Alien Property Custodian, by virtue of the demand or demands heretofore served on you, did acquire every right, title and interest of the said persons whose names are listed in said Column No. 4 in the said shares of stock, including in respect to the stock, the right which the said persons may have (a) to receive all notices issued by you to the holders or owners of similar stock, shares or certificates, (b) to exercise all voting power appertaining to such stock, shares, or certificates, and (c) to receive all subscription rights, dividends, and other distributions and payments whether of capital or of income, declared or made on account of such stock, shares, or certificates;

Now, therefore, I, Thomas W. Miller, as such Alien Property Custodian, duly appointed, qualified, and acting as aforesaid, by virtue of the authority vested in me by said Act, proclamations and Executive Orders, and particularly by the amendment to Subsection (c) of Section Seven of said Act, approved November 4, 1918, do hereby require you to cancel forthwith upon your books and records, all the said shares of stock listed in said schedule and in lieu thereof to issue new certificates respectively in the name of the person or persons as specified in Column No. 6 of said schedule.

This requirement is supplementary to any which has been heretofore made upon you with respect to said shares or certificates and shall not prejudice nor affect any such requirement or any rights acquired by virtue thereof.

Witness my hand and seal of office, this 19th day of January 1924.
 Thomas W. Miller, Alien Property Custodian. (Seal of
 Alien Property Custodian, United States of America.)

[fol. 25]

EXHIBIT F TO PETITION

Copy

A. P. C. Form No. 106-A

Report No. 40164. Trust No. E-39810

Alien Property Custodian

Demand on Corporation for Stockholder's Interest Without Presentation of Certificates

Demand by Alien Property Custodian for Property

Extracts from "Trading with the Enemy Act"

Sec. 7 (c). "If the President shall so require, any money or other property owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the alien property custodian."

Sec. 7 (e). "No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this Act."

"Any payment, conveyance, transfer, assignment or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owed to an enemy or ally of enemy, deliver up any notes, bonds or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee."

Extracts from Executive Order of February 26, 1918

Sec. 1 (c). "The words 'right,' 'title,' 'interest,' 'estate,' 'power,' and 'authority' of the enemy, as used herein, shall be deemed to

mean respectively such right, title, interest, estate, power, and authority of the enemy as may actually exist and also such as might or would exist if the existing state of war had not occurred, and shall be deemed to include respectively the right, title, interest, estate, power, and authority in law or equity or otherwise of any representative of or trustee for the enemy or other person claiming under or in the right of, or for the benefit of, the enemy."

Sec. 2 (a). "A demand for the conveyance, transfer, assignment, delivery, and payment of money or other property, unless expressly qualified or limited, shall be deemed to include every right, title, interest, and estate of the enemy in and to the money or other property demanded as well as every power and authority of the enemy thereover."

Sec. 2 (c). "When demand shall be made and notice thereof given, as hereinbefore provided, such demand and notice shall forthwith vest in the Alien Property Custodian such right, title, interest, and estate in and to and possession of the money or other property demanded and such power or authority thereover as may be included within the demand and the Alien Property Custodian may thereupon proceed to administer such money and other property in accordance with the provisions of the 'Trading with the enemy Act' and with any orders, rules, or regulations heretofore, hereby, or hereafter made by me or heretofore or hereafter made by the Alien Property Custodian."

Sec. 3 (d). "The Alien Property Custodian may exercise any right, power, or authority of the enemy in, to, and over corporate stock, shares, or certificates representing beneficial interests owing or belonging to or held for, by, on account of, or on behalf of or for the benefit of an enemy, including (1) the right to receive all notices issued by the corporation, unincorporated association, company, or trustee which issued such stock, shares, or certificates, to the holders or owners of similar stock, shares, or certificates, (2) the right to exercise all voting power appertaining to such stock, shares, or certificates, and (3) the right to receive all subscription rights, dividends, and other distributions and payments, whether of capital or income, declared or made on account of such stock, shares, or certificates, regardless of whether or not such stock, shares, or certificates be in the possession of the Alien Property Custodian and regardless of whether or not such stock, shares, or certificates have been transferred to the Alien Property Custodian upon the books of the corporation, association, company, or trustee issuing the same."

APC-MM-188-Rev.

You are hereby instructed to remit all accumulated dividends direct to this office upon receipt hereof. If checks for accumulated dividends have heretofore been drawn in favor of the enemy and are now held by you, you may send such checks direct to this office.

All future dividends shall be remitted to Guaranty Trust Company

of New York as depositary for Alien Property Custodian. Trust No. E-39810 which has been duly designated as the depositary in this trust.

You will also direct all notices hereby demanded, to said depositary and identify each notice by the trust number hereof.

To Great Northern Railway Company, Address 32 Nassau Street, New York, New York:

I, Francis P. Garvan, Alien Property Custodian, duly appointed, qualified, and acting under the provisions of the Act of Congress known as the "Trading with the enemy Act," approved October 6, 1917, and the executive orders issued in pursuance thereof, by virtue of the authority vested in me by said act, and by said executive orders, after investigation do determine that Lieber & Company (name of enemy or ally of enemy), whose address is Vienna, Austria (last known address), is an enemy (not holding a license granted by the President), and has a certain right, title, and interest in and to 596 shares of preferred (common preferred) stock standing on your books in the name of A. Biedermann & Company.

I, as Alien Property Custodian, do hereby require that you shall convey, transfer, assign, and deliver to me as Alien Property Custodian, to be by me held, administered, and accounted for as provided by law, every right, title, and interest of the said enemy in said stock, including in respect to the said stock the right which the said enemy may have, (a) to receive all notices issued by you to the holders or owners of similar stock, shares, or certificates; (b) to exercise all voting power appertaining to such stock, shares, or certificates; (c) to receive all subscription rights, dividends, and other distributions and payments, whether of capital or of income, declared or made on account of such stock, shares, or certificates.

I, as Alien Property Custodian, do hereby further require that you note the substance of this demand upon your stock books and/or stock ledger, and that you furnish a copy of this demand to the registrar and/or transfer agent, if any, of the stock in respect to which this demand is made.

I, as Alien Property Custodian, do hereby further require that within ten days from the service of this demand upon you, you report to me any and all acts which you have done, or omitted to do, pursuant to the requirements of this demand.

Until otherwise directed, you will remit to the Alien Property Custodian at Washington, by check payable to his order, all payments, whether of capital or income, now or hereafter declared or due on account of such stock, shares, or certificates, and you will direct such notices in respect to the said stock, shares, or certificates to the Alien Property Custodian.

This demand is supplementary to any demand which may hitherto have been made upon you, accompanied by the presentation of certificates which represent shares or beneficial interests, for the transfer into my name, as Alien Property Custodian, of such certificates; or for the transfer thereof into the name of any nominee of me as

Alien Property Custodian, and this demand shall not prejudice or affect any demand accompanied by such certificates which has been, or which may hereafter be, made.

Witness my hand and seal of office, this thirteenth day of May, 1919

Francis P. Garvan, Alien Property Custodian, by (Sgd.)
F. J. Horne, Managing Director.

Service of the within demand accepted this 27th day of May, 1919.
Great Northern Ry. Co., by (Sgd.) N. Terhune, Asst. Treas.

Served the within notice and demand on the within-named Great Northern Railway Company at 32 Nassau Street, in the City of New York, State of New York, this 27th day of May, 1919, by giving a true and correct copy thereof to ———, a — of the corporation of whom said demand is made, at the office of said corporation. ———.

Served the within demand and notice on the corporation to which this demand is addressed, by transmitting a true and correct copy thereof to the said corporation at the address which appears on the face hereof, in a securely fastened official franked wrapper, registered at the post office at ———, in the city of Washington, on the — day of ———, 191—.

Guaranty Trust Company of New York. (Sgd.) A. Keena,
Custody Clerk.

[fol. 26]

EXHIBIT G TO PETITION

Original

Trust No. 3322

Report No. 40164

To: Great Northern Railway Company.
Address: 32 Nassau Street, New York City.

and to all transfer agents, registrars, and other persons having power to perform any of the acts hereinafter required.

Whereas, the Alien Property Custodian, duly appointed, qualified, and acting under the provisions of the Act of Congress known as the "Trading with the Enemy Act" approved October 6, 1917, and the amendments thereto, and the proclamations and Executive Orders issued in pursuance thereof, by virtue of the authority vested in him by said Act, said Proclamations and Executive Orders, after investigation, did determine that those certain shares of your capital stock heretofore registered and standing upon your books in the name of the person or persons listed in Column No. 1 of the schedule

marked "Exhibit A" attached hereto and made a part hereof (said schedule being identified by the signature A. Henry Walter on the margin thereof), and evidenced or represented by a certificate or certificates numbered as specified in Column No. 2 of said schedule on the same line with the name of the person in whose name said stock is registered or stands, of the number and class of shares listed in Column No. 3 of said schedule on the same line as aforesaid, belonged to and were by you held for, on account of, on behalf of, or for the benefit of the person or persons listed on the same line therewith in Column No. 4 of said schedule; and

Whereas the said Alien Property Custodian, did, after investigation, determine said persons whose names are listed in said Column No. 4 and whose addresses are given in Column No. 5 on the same line therewith, to be enemies not holding a license granted by the President, within the purview of said Act as amended and said proclamations and Executive Orders issued in pursuance thereof; and

Whereas the said Alien Property Custodian, by virtue of the demand or demands heretofore served on you, did acquire every right, title and interest of the said persons whose names are listed in said Column No. 4 in the said shares of stock, including in respect to the stock, the right which the said persons may have (a) to receive all notices issued by you to the holders or owners of similar stock, shares, or certificates, (b) to exercise all voting power appertaining to such stock, shares, or certificates, and (c) to receive all subscription rights, dividends, and other distributions and payments whether of capital or of income, declared or made on account of such stock, shares, or certificates;

Now, therefore, I, Thomas W. Miller, as such Alien Property Custodian, duly appointed, qualified, and acting as aforesaid, by virtue of the authority vested in me by said Act, proclamations and Executive Orders, and particularly by the amendment to Subsection (c) of Section Seven of said Act, approved November 4, 1918, do hereby require you to cancel forthwith upon your books and records, all the said shares of stock listed in said schedule and in lieu thereof to issue new certificates respectively in the name of the person or persons as specified in Column No. 6 of said schedule.

This requirement is supplementary to any which has been heretofore made upon you with respect to said shares or certificates and shall not prejudice nor affect any such requirement or any rights acquired by virtue thereof.

Witness my hand and seal of office, this 19th day of January 1924.

Thomas W. Miller, Alien Property Custodian.

[File endorsement omitted.]

[fol. 27] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF RESPONDENT GREAT NORTHERN RAILWAY COMPANY—
Filed Feb. 7, 1925

To the Honorable Judges of the District Court of the United States
for the Southern District of New York:

Great Northern Railway Company, respondent herein, through Walker D. Hines, Esq., its attorney, answering the petition of Thomas W. Miller, as Alien Property Custodian alleges as follows:

I. It admits the allegations contained in paragraphs numbered "1," "2," "3," "4," "10" and "15" of said petition.

II. It admits the allegations contained in paragraphs numbered "5," "6," "11," and "16" of said petition, except that it refers to the demands described therein for the purport thereof, and except that it denies that it has any knowledge or information sufficient to form a belief as to whether any investigations or determinations were made as alleged in said paragraphs, or as to whether the said demands were issued either by A. Mitchell Palmer or Francis P. Garvan, as Alien Property Custodian.

[fol. 28] III. It admits the allegations contained in paragraphs numbered "7," "12," and "17" of said petition, except that this respondent says that the new certificates issued by it as alleged in said paragraph numbered "7" were issued only upon formal and specific demands of the Alien Property Custodian that the shares in question be transferred upon this respondent's books into the name of a designated transferee and that this respondent issue new certificates in accordance with such demands in lieu of the original certificates which were surrendered with such demands.

IV. It admits the allegations contained in paragraphs numbered "8," "13" and "18" of said petition, except that it refers to the demands or requests described therein for the purport thereof, and except that it denies that the Alien Property Custodian had any authority to make such demands or requests, and denies that the legal effect of such demands or requests was to require the cancellation of the certificates therein referred to, or the issuance of new certificates therefor.

V. It admits that petitioner desires to have new certificates issued to him as alleged in paragraphs numbered "9," "14" and "19" of said petition, but it denies that petitioner is entitled thereto, or is entitled to have cancelled upon the books and records of this respondent the certificates now outstanding, as alleged in said paragraphs.

This respondent, further answering the petition herein, alleges as follows:

VI. It repeats, realleges and incorporates as if herein fully and at length set forth, all the denials, admissions and allegations contained in paragraphs numbered I to V of this answer.

[fol. 29] VII. That neither petitioner nor any of his predecessors in office nor any one acting on his or their behalf at any time, surrendered or tendered to this respondent the outstanding stock certificates covering the shares for which petitioner seeks new certificates in this proceeding.

VIII. That the Charter under which this respondent has operated and now operates was granted in 1856 to its predecessor, the Minneapolis & St. Cloud Railroad Company, by the Territory of Minnesota, and on the subject of transfer of stock certificates said charter provided and now provides as follows:

"Sec. 3. The capital stock of the corporation hereby created,
* * * shall be transferable in such manner as the corporation
by its regulations or by-laws shall prescribe. * * *

That, pursuant to the authority of the foregoing Charter provision, the Board of Directors of this respondent adopted a resolution approving a form of certificate of the Company's preferred stock, the character of stock involved in this proceeding, which said form of certificate contained on its face the provision that it was "transferable only on the books of the Company in person or by Attorney and upon the surrender of this Certificate." That said last mentioned provision has never been changed and is contained in all certificates issued by this respondent and now outstanding, including all of said certificates which petitioner now seeks to have cancelled without the surrender thereof.

That the by-laws adopted by this respondent's Board of Directors, and in effect at all times set forth in the petition herein, contain the following:

[fol. 30] "Article V—Capital Stock

* * * * *

Section 2. Transfer of Shares.—Shares in the Capital stock of the company shall be transferred only on the books of the company by the holder thereof in person or by his attorney, upon surrender and cancellation of certificates for a like number of shares."

IX. That this respondent being a corporation organized and existing under the laws of the State of Minnesota, the stock and the certificates representing same, have only such attributes of property and are subject to such limitations as are fixed or authorized by the laws of Minnesota, and that under the aforesaid Charter or special law of Minnesota, no owner of shares of the preferred stock of this respondent has any right or title to have the same transferred upon the books of the company or to have new certificates issued therefor except upon the surrender of the old certificates therefor and that

the Alien Property Custodian, even if succeeding to the rights of such owner, could succeed to no greater rights than possessed by such owner.

X. That the Personal Property Law of the State of New York, in which state this respondent maintains an office for transferring of certificates of its stock, as alleged in paragraph number "2" of the petition, provides as follows:

"Sec. 174. * * * Except where a certificate is lost or destroyed, such corporation shall not be compelled to issue a new certificate for the stock until the old certificate is surrendered to it."

XI. That the shares of stock of this respondent, of the character involved in this proceeding are listed upon the New York Stock Exchange, and as alleged in paragraph numbered "2" of the petition [fol. 31] herein, respondent Central Union Trust Company of New York is the registrar of transfers of stock of said Railway Company. That at all times set forth in the petition herein there was and still is an agreement in force and effect between respondent Trust Company and the said New York Stock Exchange under which said Trust Company has agreed and still agrees, as the condition of being accepted by the New York Stock Exchange as such registrar, not to register the transfer of stock certificates of this respondent without the surrender of the certificates outstanding therefor.

XII. Upon information and belief that the stock certificates now outstanding covering the shares for which petitioner seeks new certificates in this proceeding have been since their issue subject to transfer to bona fide holders for value, who may be citizens of the United States or of friendly nations; that said certificates have been since their issue subject to capture or seizure by the duly constituted authorities of any of the nations with which the United States was associated as a belligerent in the World War; and that this respondent does not know who are the present holders of said certificates or the present owners of the shares represented thereby.

XIII. That nothing in the laws of the United States requires this respondent to issue new certificates to or on behalf of petitioner as prayed by him, and that if any enactment or resolution of the Congress of the United States should be construed as so requiring, the same would be in violation of the Constitution of the United States because not within the purview of the war power conferred upon Congress by Article One Section 8 of said Constitution, and because [fol. 32] working a deprivation of liberty and property without due process of law contrary to the Fifth Amendment to said Constitution.

Wherefore, this respondent prays that the petition herein be dismissed.

Walker D. Hines, Attorney for Respondent. Office and Post Office Address, 24 Broad Street, Borough of Manhattan, New York City.

[fol. 33] Sworn to by Edward T. Nichols. Jurat omitted in printing.

[File endorsement omitted.]

[fol. 34] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF RESPONDENT CENTRAL UNION TRUST COMPANY OF NEW YORK—Filed Feb. 7, 1925

To the Honorable Judges of the District Court of the United States for the Southern District of New York:

Central Union Trust Company of New York, respondent herein, through Walker D. Hines, Esq., its attorney, answering the petition of Thomas W. Miller, as Alien Property Custodian alleges as follows:

I. It admits the allegations contained in paragraphs numbered "1," "2" and "3" of said petition.

II. It admits upon information and belief the allegations contained in paragraphs numbered "4," "10" and "15" of said petition.

III. It admits upon information and belief the allegations contained in paragraphs numbered "5," "6," "11," and "16" of said petition, except that it refers to the demands described therein for the purport thereof, and except that it denies that it has any knowledge or information sufficient to form a belief as to whether any investigations or determinations were made as alleged in said paragraph [fol. 35] graphs, or as to whether said demands were issued either by A. Mitchell Palmer or Francis P. Garvan, as Alien Property Custodian.

IV. It admits upon information and belief the allegations contained in paragraphs numbered "7," "12," and "17" of said petition, except that this respondent says upon information and belief that the new certificates issued by respondent, Great Northern Railway Company, as alleged in said paragraph numbered "7" were issued only upon formal and specific demands of the Alien Property Custodian that the shares in question be transferred upon the books of respondent, Great Northern Railway Company, into the name of a designated transferee and that said respondent issue new certificates in accordance with such demands in lieu of the original certificates which were surrendered with such demands.

V. It admits upon information and belief the allegations contained in paragraphs numbered "8," "13" and "18" of said petition, except that it refers to the demands or requests described therein for

the purport thereof, and except that it denies that the Alien Property Custodian had any authority to make such demands or requests and denies that the legal effect of such demands or requests was to require the cancellation of the certificates therein referred to, or the issuance of new certificates therefor.

VI. It admits that petitioner desires to have new certificates issued to him as alleged in paragraphs numbered "9," "14" and "19" of said petition, but it denies that petitioner is entitled thereto, or is entitled to have cancelled upon the books and records of respondent, Great Northern Railway Company, the certificates now outstanding as alleged in said paragraphs.

[fol. 36] This respondent, further answering the petition herein, alleges as follows:

VII. It repeats, realleges and incorporates as if herein fully and at length set forth, all the denials, admissions and allegations contained in paragraphs numbered I to VI of this answer.

VIII. Upon information and belief that neither petitioner nor any of his predecessors in office nor any one acting on his or their behalf at any time surrendered or tendered to respondent, Great Northern Railway Company, the outstanding stock certificates covering the shares for which petitioner seeks new certificates in this proceeding.

IX. Upon information and belief, that respondent, Great Northern Railway Company, is a corporation organized and existing under the laws of the State of Minnesota; that said Railway Company's shares of stock and the certificates representing the same have only such attributes of property and are subject to such limitations as are fixed or authorized by the laws of Minnesota; that under Section 3 of the Act of the Legislative Assembly of the territory of Minnesota approved March 1, 1856, Chapter CLX Laws of 1856, incorporating the Minneapolis & St. Cloud Railroad Company, the predecessor of respondent Railway Company, the capital stock of said Company was declared to be transferable in such manner as the corporation by its regulations or bylaws should prescribe; that under the bylaws adopted by respondent Railway Company and in effect at all times set forth in the petition herein, shares in the capital stock of said Company are transferable only on the books of the Company upon surrender and cancellation of certificates for a like number of shares; that no owner of shares of said stock of respondent Railway Company [fol. 37] has any right or title to have the same transferred upon the books of said Company or to have new certificates issued therefor except upon the surrender of the old certificates therefor, and that the Alien Property Custodian, even if succeeding to the rights of such owner, could succeed to no greater rights than possessed by such owner.

X. That the Personal Property Law of the State of New York, in which State respondent, Great Northern Railway Company, main-

tains an office for transferring of certificates of its stock, as alleged in paragraph numbered "2" of the petition provides as follows:

"Sec. 174. * * * Except where a certificate is lost or destroyed, such corporation shall not be compelled to issue a new certificate for the stock until the old certificate is surrendered to it."

XI. That the shares of stock of respondent, Great Northern Railway Company, of the character involved in this proceeding are listed upon the New York Stock Exchange, and as alleged in paragraph numbered "2" of the petition herein, this respondent is the registrar of transfers of stock of said Railway Company. That at all times set forth in the petition herein there was and still is an agreement in force and effect between this respondent and the said New York Stock Exchange under which this respondent has agreed and still agrees as the condition of being accepted by the New York Stock Exchange as such registrar, not to register the transfer of stock certificates of respondent, Great Northern Railway Company, without the surrender of the certificates outstanding therefor.

XII. Upon information and belief that the stock certificates now outstanding covering the shares for which petitioner seeks new certificates in this proceeding have been since their issue subject to transfer to bona fide holders for value, who may be citizens of the United States or of friendly nations; that said certificates have been since their issue subject to capture or seizure by the duly constituted authorities of any of the nations with which the United States was associated as a belligerent in the World War; and that this respondent does not know who are the present holders of said certificates, or the present owners of the shares represented thereby.

XIII. That nothing in the laws of the United States requires this respondent to countersign new certificates for or on behalf of petitioner as prayed by him, and that if any enactment or resolution of the Congress of the United States should be construed as so requiring, the same would be in violation of the Constitution of the United States because not within the purview of the war power conferred upon Congress by Article One, Section 8 of said Constitution, and because working a deprivation of liberty and property without due process of law contrary to the Fifth Amendment to said Constitution.

Wherefore, this respondent prays that the petition herein be dismissed.

Walker D. Hines, Attorney for Respondent. Office and Post Office Address, 24 Broad Street, Borough of Manhattan, New York City.

[fol. 39] Sworn to by F. B. Smidt. Jurat omitted in printing.

[File endorsement omitted.]

[fol. 40]

IX UNITED STATES DISTRICT COURT

[Title omitted]

STIPULATION RE FACTS—Filed Feb. 7, 1925

Stipulation of Facts

It is hereby stipulated and agreed by and between the attorneys for the parties hereto that the following facts are true and shall be taken and considered as a part of the record and proceedings in the above-entitled case and shall be filed with the petition as if the same were a part thereof, and that if any statements contained herein are in conflict with the petition or the exhibits annexed thereto, this stipulation shall govern.

1. That all of the demands alleged in the petition herein to have been issued by the Alien Property Custodian, and which were directed to and served upon Great Northern Railway Company, including the demands, copies whereof are annexed to said petition, marked respectively "Exhibit A," "Exhibit B," "Exhibit D" and "Exhibit F," bear the official seal of office of the Alien Property Custodian.

Duer & Taylor, Attorneys for Petitioner. Walker D. Hines,
Attorney for Respondents.

[File endorsement omitted.]

[fol. 41]

IN UNITED STATES DISTRICT COURT

[Title omitted]

STIPULATION RE RELEASE OF CERTAIN SHARES BY CUSTODIAN—
Filed Feb. 7, 1925

The Alien Property Custodian having released by written instruments, copies of which are attached hereto, all right, title and interest in and to the five shares of preferred stock of Great Northern Railway Company standing in the name of Catherine Vogel Durringer, represented by certificate No. A 139556, and also in and to the six shares of said stock standing in the name of Alex. H. Kehrhahn, represented by certificate No. A 112806, which are included among the shares of stock referred to in the petition and order to show cause herein;

It is hereby stipulated and agreed by and between the attorneys for the respective parties hereto, that the petition and answers herein be amended by striking therefrom all reference to said shares of stock, to said certificates therefor, the persons in whose names they stand and the demands alleged to have been issued by the Custodian for the same.

And it is further stipulated and agreed that in any order that may [fol. 42] be entered herein, the said shares of stock may be omitted therefrom.

Dated New York, Nov. 19, 1924.

Duer & Taylor, Attorneys for Petitioner. Walker D. Hines,
Attorney for Respondents.

[fol. 43]

EXHIBIT TO STIPULATION

Copy

Alien Property Custodian, Washington

Trust No. 8230. Report No. 8588

To Great Northern Ry. Co., 32 Nassau Street, New York, N. Y.:

By virtue of a proceeding under Section 9 of the Trading with the Enemy Act, the Alien Property Custodian, has ordered the return to Catherine Durringer of five (5) shares of Preferred stock in your corporation heretofore required to be transferred, assigned and delivered to the Alien Property Custodian.

Therefore you are hereby notified that you may forthwith make such entries on your books and records and/or such further transfers of said stock as may be necessary to return the title and ownership thereof to the said former owner.

Nothing contained in this notice, however, is intended or shall be construed in any wise as a warranty by the Alien Property Custodian of the title or ownership of said stock, the purpose of this notice being merely to release the right, title and interest of the Alien Property Custodian heretofore acquired by his said requirements.

Witness my hand and official seal, this 15th day of July, 1924.

Thomas W. Miller, Alien Property Custodian, by (Sgd.)

Sewall W. Abbott, Managing Director. (Seal.)

[fol. 44]

EXHIBIT TO STIPULATION

Copy

Alien Property Custodian, Arlington Building, Vermont Avenue and
H Street, Washington

Trust No. 8226. Report No. 9022-15286

May 5th, 1924.

To Great Northern Railway Co., New York City, N. Y.:

By virtue of a proceeding under Section 9 of the Trading with the Enemy Act, the Alien Property Custodian, has ordered the return to Alexander H. Kehrhahn, of Six (6) shares of preferred stock in your corporation heretofore required to be transferred, assigned and delivered to the Alien Property Custodian.

Therefore you are hereby notified that you may forthwith make such entries on your books and records and/or such further transfers of said stock as may be necessary to return the title and ownership thereof to the said former owner.

Nothing contained in this notice, however, is intended or shall be construed in any wise as a warranty by the Alien Property Custodian of the title or ownership of said stock, the purpose of this notice being merely to release the right, title and interest of the Alien Property Custodian heretofore acquired by his said requirements.

Witness my hand and official seal this 5th day of May, 1924.

Thomas W. Miller, Alien Property Custodian, by Sewall W. Abbott. (Signed) Sewall W. Abbott, Assistant General Counsel. (Seal.)

W. M. G.
APC-MM-616 Rev.

[File endorsement omitted.]

[fol. 45]

IN UNITED STATES DISTRICT COURT

[Title omitted]

OPINION

GODDARD, J.:

The amendment of November 4th, 1918 seems to me to be remedial in its nature and to be construed as applying to demands theretofore issued, as well as to those made later. That this was the intention of Congress appears from the history of its enactment as well as the statute itself. No vested rights or other interests, if such exist, are impaired, as Section 9 of the "Trading with the Enemy

Act" provides a complete remedy for those injured thereby. The Act itself and the executive order of February 26th, 1918 issued by the President was sufficient authorization for the managing director [fol. 46] of the Alien Property Custodian or his subordinates to sign the demands. See *Kahn v. Garvan* 263 Fed. 909, 915. The State Statutes and the Rule of the New York Stock Exchange are subordinate to the War power exercised by Congress. *Northern Pacific Railway Company v. North Dakota* 250 U. S. 135.

In accordance with *Miller v. Kaliwerke Aschersleben Aktien-Gesellschaft*, 283 Fed. 746, reported in the District Court as *Garvan v. Certain Shares of International Agricultural Corporation* 276 Fed. 206; *Columbia Brewing Company v. Miller*, 281 Fed. 289; *Miller v. Voting Trustees of the Gulf States Steel Company*, unreported decision of Judge A. N. Hand, October, 1922, it is directed that new certificates be issued to the Alien Property Custodian. Settle order on notice.

January 14th, 1925.

Henry W. Goddard, U. S. D. J.

[fol. 47]

IN UNITED STATES DISTRICT COURT

[Title omitted]

FINAL DECREE—Filed March 11, 1925

This cause coming on to be heard upon the petition of Thomas W. Miller, as Alien Property Custodian of the United States, and the exhibits annexed thereto, and the order to show cause dated October 8, 1924; upon the service duly made upon Great Northern Railway Company and Central Union Trust Company of New York, pursuant to the said order to show cause; upon due admission of service upon and entry of appearance by Walker D. Hines, Esq., attorney for respondents, Great Northern Railway Company and Central Union Trust Company of New York; upon the answers of said respondents; upon the stipulation of facts filed herein; upon the stipulation, dated November 19, 1924, amending the petition and an- [fol. 48] swers by striking therefrom all reference to certain shares of stock; and the Court having heard George Winship Taylor, Esq., of Duer & Taylor, of counsel for the petitioner, in support of the petition, and Walker D. Hines, Esq., attorney for the respondents in opposition thereto, and the matter having been duly considered,

Now, Therefore, upon the petition and exhibits annexed thereto and the order to show cause with due service thereof, and entry of appearance on behalf of respondents, Great Northern Railway Company and Central Union Trust Company of New York; upon the answers of said respondents; upon the stipulation of facts; upon the stipulation amending the petition and answers; upon the memorandum opinion of the Court dated January 14, 1925; and upon all the proceedings heretofore had herein, it is

Ordered, adjudged and decreed, that the said Great Northern Railway Company be, and it is hereby directed, to cancel upon its books and records the following certificates for the following shares of its preferred capital stock standing in the following names, and to issue new certificates respectively therefor in the name of Guaranty Trust Company of New York, as depositary for the Alien Property Custodian:

Name of registered owner	Number of certificate	Number of shares
Constance Roth	A94131	4
Harold Roth	A94129	4
	A125470	8
Isabelle Roth	B74293	10
	B79400	10
Fritz Roths Schuh	A86025	15
	B52995	10
[fol. 49]		
Albertine, Baroness Schauenburg	A96398	4
Albertine, Baroness von Schauenburg	A125469	8
Deutsche Bank (Berlin)	B65537/9	30
London Agency	A120366	3
Direction Der Disconto-	B65753/7	50
Gesellschaft	B74501/5	50
Dresdner Bank	B61180	10
	B63232/8	70
	B66439	10
	A11632/3	2
Constance Hudemann	A125468	8
Kais Koen Oesterreichische Laenderbank.	B79016/29	140
Erich Karbe & Gustav	B27912	10
Wahrendorf	B43027	10
	B64057	10
Maurice Krichel	A141094	7
Paul Lindenberg & Oscar	B52697	10
Giessmann	B52709/10	20
A. Biedermann & Co.	A13813	6
“ “ “ “	A62897	4
“ “ “ “	B48645	10
“ “ “ “	B64906	10
“ “ “ “	B66213-5	30
“ “ “ “	B66777-80	40
“ “ “ “	A69226	6
“ “ “ “	B71583/603	210
“ “ “ “	B74764/9	60
“ “ “ “	B75342/5	40
“ “ “ “	B80143/5	30
“ “ “ “	B85087/96	100
“ “ “ “	B86633/7	50

and to cancel upon its books and records the following certificate [fol. 50] for the following shares of its preferred stock standing in the following name, and to issue new certificate therefor in the name

of United States Trust Company of New York, as depositary for the Alien Property Custodian: O. A. Rosenberg & Co., B60786, 10, and it is

Further ordered, adjudged and decreed that said Central Union Trust Company of New York be, and it is hereby, directed to countersign as Registrar of Transfers said new certificates when issued by said Great Northern Railway Company, and it is

Further ordered, adjudged and decreed that said new certificates when issued and countersigned as herein directed shall be forthwith delivered by said Great Northern Railway Company and Central Union Trust Company of New York to the Alien Property Custodian of the United States, or to the attorney for said Custodian, and it is

Further ordered, adjudged and decreed that execution of this order be stayed pending appeal, provided said appeal be taken within thirty days from the date hereof.

Henry W. Goddard, U. S. District Court Judge.

[File endorsement omitted.]

[fol. 51] IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR APPEAL

To the Honorable Judges of the District Court of the United States for the Southern District of New York:

And now come respondents, Great Northern Railway Company and Central Union Trust Company of New York by Walker D. Hines, their attorney, and, feeling themselves aggrieved by the final order and decree of this Court, entered on the 11th day of March, 1925, hereby pray that an appeal may be allowed to them from the said final order and decree to the Supreme Court of the United States and, in connection with this petition, petitioners herewith present their assignments of error.

Dated New York, N. Y., March 13th, 1925.

Walker D. Hines, Attorney for Respondents. Office and
P. O. Address, 24 Broad Street, Borough of Manhattan,
New York City.

[fol. 52] IN UNITED STATES DISTRICT COURT

[Title omitted]

ASSIGNMENTS OF ERROR—Filed March 14, 1925

Now come the respondents, Great Northern Railway Company and Central Union Trust Company of New York, by Walker D. Hines, their attorney, and in connection with their petition for appeal

say that in the record, proceedings and final order and decree aforesaid manifest error has intervened to the prejudice of said respondents, to wit:

1. The Court erred in holding that petition was entitled to the relief granted herein or to any relief, and in failing to hold that the petition herein should be dismissed.

2. The Court erred in ordering and directing respondent, Great Northern Railway Company, to cancel upon its books and records the certificates for the shares of stock of said company mentioned and described in said order and decree, and to issue new certificates respectively for said shares in the name of the depositaries designated in said order and decree.

[fol. 53] 3. The Court erred in ordering and directing respondent, Central Union Trust Company of New York, to countersign as Registrar of Transfers such new certificates when issued by said Great Northern Railway Company.

4. The Court erred in ordering and directing respondents to deliver to the Alien Property Custodian of the United States or to the attorney for said Custodian, such new certificates when issued by said Great Northern Railway Company and countersigned by said Central Union Trust Company of New York.

5. The Court erred in holding that the Trading with the Enemy Act, as amended by the Act of November 4, 1918 amending section 7(c) thereof, authorized said Custodian, or any Court acting upon petition of said Custodian, to require the issue of new certificates for any of the shares of stock involved herein without the surrender and cancellation of the old and outstanding certificates therefor.

6. The Court erred in failing to hold that, if the Trading with the Enemy Act as amended by the Act of November 4, 1918 amending section 7(c) thereof, be construed as requiring the issue of new certificates for any of the shares of stock involved herein without surrender and cancellation of the old and outstanding certificates therefor, said Act operates to work a deprivation of liberty and property without due process of law contrary to the Fifth Amendment to the Constitution.

7. The Court erred in holding that the determinations and demands alleged to have been made by said Custodian, prior to the termination of the war with Germany, constituted such a compliance with the Trading with the Enemy Act, as would justify said [fol. 54] Custodian in requiring, or the Court in ordering, a cancellation of the old and outstanding certificates and the issue of new ones for the shares of stock involved herein, inasmuch as said Custodian, prior to the termination of the war, had made no determinations as to the ownership of said shares themselves and no demands for the said shares themselves or for their transfer, but his alleged determinations and demands related merely to undefined, partial and incomplete interests in said shares.

8. The Court erred in failing to hold that the determinations and demands alleged to have been made by said Custodian, prior to the termination of the war with Germany, if construed as determinations and demands relating to the shares of stock themselves involved herein, and the ownership thereof, would be lacking in due process of law, and that the enforcement of said alleged determinations and demands as so construed would work a deprivation of liberty and property without due process of law contrary to the Fifth Amendment to the Constitution.

9. The Court erred in failing to hold that the shares of stock of respondent, Great Northern Railway Company, involved herein, and the certificates representing same have only such attributes of property and are subject to such limitations as are fixed or authorized by the laws of Minnesota, under whose laws said respondent is incorporated, and that under the laws of said State no owner of shares of stock of said respondent has the right or title to have the same transferred upon the books of said company or to have new certificates issued therefor except upon the surrender and cancellation of old and outstanding certificates therefor.

10. The Court erred in failing to hold that by virtue of Section 174 of the Personal Property Law of the State of New York, in which [fol. 55] State respondent, Great Northern Railway Company, maintains an office for transfer of its stock, an owner of shares of stock of said respondent has no right to require the issue of a new certificate therefor, until the old certificate is surrendered to said respondent, except where the old and outstanding certificate is lost or destroyed.

11. The Court erred in failing to hold that by virtue of the agreement existing between the New York Stock Exchange and respondent, Central Union Trust Company of New York, Registrar of Transfers of respondent, Great Northern Railway Company, referred to in the answers of respondents herein, an owner of shares of stock of said Great Northern Railway Company, has no right to require the registration of new stock certificates representing such owner's shares of stock, without the surrender of the certificates outstanding therefor.

12. The Court erred in failing to hold that even if said Custodian had, by determinations and demands consonant with the Constitution and the Acts of Congress, succeeded to the rights of an owner of shares of stock of said Great Northern Railway Company, said Custodian could succeed to no greater rights than possessed by such owner, and hence could acquire no right to have new certificates for said shares issued or countersigned without the surrender and cancellation of old and outstanding certificates therefor; and that said Trading with the Enemy Act, if construed as conferring on said Custodian such right greater than possessed by the owner, would work a deprivation of liberty and property without due process of law contrary to the Fifth Amendment to the Constitution.

[fol. 56] 13. The Court erred in holding that the provisions of the Act of November 4, 1918 amending section 7(c) of the Trading with the Enemy Act, (even if such amendment be construed as authorizing said Custodian to demand the transfer to him of shares of stock, and the issue of new certificates therefor, without surrender and cancellation of the old and outstanding certificates), apply retroactively to the demands alleged to have been theretofore made herein by said Custodian.

14. The Court erred in failing to hold that, if the Trading with the Enemy Act as amended by the Act of November 4, 1918 amending section 7(c) thereof, be construed as authorizing said Custodian to demand the transfer to him of shares of stock, and the issue of new certificates therefor, without surrender and cancellation of the old and outstanding certificates, the application of the provisions of such amendment to demands alleged to have been theretofore made by said Custodian, would be unconstitutional because working a deprivation of liberty and property without due process of law, contrary to the Fifth Amendment to the Constitution.

15. The Court erred in failing to hold that the actions of said Custodian as taken in the demands made and served in the year 1924, and as taken in this proceeding commenced in the year 1924, call for the creation in and transfer to said Custodian of rights respecting, and interests in, the shares of stock involved herein different from and in addition to any rights and interests alleged to have been determined and demanded by him prior to the termination of the war with Germany.

16. The Court erred in failing to hold that if any enactment or [fol. 57] resolution of the Congress of the United States be construed as empowering and authorizing said Custodian, after the termination of the war with Germany, to make demand for and create in himself property rights different from and in addition to those determined and demanded by him prior to the termination of the war, the said enactment or resolution would be unconstitutional because not within the purview of the war power conferred upon Congress by Article I, Section 8, Clause 11 of the Constitution, and because working a deprivation of liberty and property without due process of law contrary to the Fifth Amendment to the Constitution.

17. The Court erred in failing to hold that the Treaty of Peace between the United States and Germany of date August 25th, 1921, constituted no barrier to rights which it was the duty and right of respondents to protect herein, inasmuch as such Treaty of Peace could conclude no rights except those of German Nationals, and the alleged demands of said Custodian constituted no determination that any of the shares of stock themselves involved herein belonged to German Nationals.

18. The Court erred in holding that there was sufficient proof to establish the fact that the demands alleged to have been issued and

served by said Custodian in the years 1918 and 1919 were in fact demands signed and issued by said Custodian or by a duly authorized representative of said Custodian.

Wherefore, respondents pray that the said final order and decree of the District Court may be reversed with directions to said Court to [fol. 58] enter an order dismissing the petition as prayed for in the answers herein.

Walker D. Hines, Attorney for Respondents. Office and P.
O. Address, 24 Broad Street, Borough of Manhattan, New
York City.

[File endorsement omitted.]

[fol. 59] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER ALLOWING APPEAL—Filed March 14, 1925

On reading the petition of Great Northern Railway Company and Central Union Trust Company of New York, respondents herein, for appeal, and upon consideration of the assignments of error presented therein, it is

Ordered, that an appeal be and the same is hereby allowed to the said respondents from the final order and decree of this Court, entered on the 11th day of March, 1925, to the Supreme Court of the United States, as prayed for in their petition, on the condition that said respondents do file an appeal bond in the sum of Two Hundred and Fifty (\$250) Dollars.

Dated New York, March 14th, 1925.

Jno. C. Knox, United States District Judge.

[File endorsement omitted.]

[fol. 60] BOND ON APPEAL FOR \$250.00—Approved and Filed
March, 14, 1925; omitted in printing.

[fol. 61] CITATION—In usual form, showing service on Emory R.
Buckner; filed March 17, 1925; omitted in printing

[fol. 62] IN UNITED STATES DISTRICT COURT

[Title omitted]

STIPULATION RE TRANSCRIPT OF RECORD—Filed April 3, 1925

It is hereby stipulated and agreed by and between the attorneys for the respective parties in the above entitled proceeding that the Clerk of this Court be and he is hereby requested and directed to prepare, certify and transmit to the Supreme Court of the United States a transcript of the record in the above entitled proceeding including therein the following papers only:

1. Order to show cause issued October 8, 1924.
2. Petition and exhibits attached thereto.
3. Answer of Great Northern Railway Company.
4. Answer of Central Union Trust Company of New York.
5. Stipulation of facts.
6. Stipulation as to release of certain shares by Custodian.
7. Opinion of Judge Henry W. Goddard dated January 14, 1925
- [fol. 63] 8. Final order and decree signed by Judge Goddard dated March 10, 1925.
9. Petition for appeal and Assignments of error.
10. Order allowing appeal to the Supreme Court of the United States.
11. Bond on appeal.
12. Citation on appeal.
13. This stipulation in lieu of præcipe.

Dated April 2nd, 1925.

Emory R. Buckner, United States Attorney, Attorney for
Petitioner. Walker D. Hines, Attorney for Respondents.

[File endorsement omitted.]

[fol. 64] IN UNITED STATES DISTRICT COURT

[Title omitted]

STIPULATION RE TRANSCRIPT OF RECORD

It is hereby stipulated and agreed that the foregoing is a true transcript of the record of the said District Court in the above entitled matter as agreed on by the parties.

Dated New York, April 3rd, 1925.

Emory R. Buckner, United States Attorney, Attorney for
Petitioner. Walker D. Hines, Attorney for Respondents.

[fol. 65]

IN UNITED STATES DISTRICT COURT

[Title omitted]

CLERK'S CERTIFICATE

I, Alexander Gilchrist, Jr., Clerk of the District Court of the United States of America for the Southern District of New York, do hereby certify that the foregoing is a correct transcript of the record of the said District Court in the above-entitled matter as agreed on by the parties.

In testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, this 3d day of April in the year of our Lord one thousand nine hundred and twenty-five and of the Independence of the United States the one hundred and forty-ninth.

Alex. Gilchrist, Jr., Clerk. (Seal District Court of the United States.)

Endorsed on cover: File No. 31006. S. New York D. C. U. S. Term No. 345. Great Northern Railway Company and Central Union Trust Company of New York, appellants, vs. Thomas W. Miller, as Alien Property Custodian of the United States. Filed April 4th, 1925. File No. 31,006.

(7398)